

Notice of Allowability

Application No.

10/052,788

Examiner

James L. Grun

Applicant(s)

GERSHWIN ET AL.

Art Unit

1641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to communication filed 15 February 2007.
2. ☒ The allowed claim(s) is/are 22,50,51,10-12,18-21,47,38-40,53,41-44,46,45,29,,36,and 37, renumbered as claims 1-24, respectively.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 04242007.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

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A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 15 February 2007 has been entered. The prior restriction requirement is hereby withdrawn and the inventions of claims 29 and 36-46 have been rejoined for examination with the inventions of the previously examined claims. Claims 10-12, 18-22, 29, 36-47, 50, and 51 are in the case and are under examination.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this Examiner's amendment was given in a telephone interview with Ms. Beth L. Kelly on 19 April 2007.

The application has been amended as follows:

IN THE CLAIMS:

The claims are as listed in the amendment filed 15 February 2007, except as amended herein below:

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-- 22. (Currently amended) An isolated or purified antibody that specifically binds to native equine IgE, wherein the isolated or purified antibody ~~is made by a process of immunizing an animal with an equine IgE-derived~~ specifically binds to a polypeptide consisting of amino acid sequence SEQ ID NO:5. --

-- 29. (Currently amended) A method of making ~~an~~ a polyclonal antibody that specifically binds to native equine IgE, the method comprising:
immunizing an animal with ~~a~~ an immunogenic composition comprising an isolated equine IgE-derived polypeptide consisting of amino acid sequence SEQ ID NO:5; and
collecting antiserum from the animal. --

-- 38. (Currently amended) A method of detecting ~~native~~ equine immunoglobulin E protein as antigen in a biological sample, the method comprising:
contacting the sample with the ~~composition~~ antibody of claim 22 ~~10, thereby forming~~
under conditions suitable for formation of an antigen/antibody complex; and
detecting presence or absence or level of the antigen/antibody complex as indicative of
the presence or absence or level of the equine IgE antigen in the sample. --

-- 45. (Currently amended) The method of claim ~~38~~ 41, wherein the complex is detected with a second labeled antibody specific for equine IgE or for the antibody. --

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-- 53. (New) The method of claim 40 wherein the equine IgE antigen is allergen-specific equine IgE and the antigen is immobilized on the solid surface by contacting the sample with at least one allergen immobilized on the solid surface under conditions suitable for formation of an immobilized antigen/allergen complex before the step of contacting with the antibody. --

The following is an examiner's statement of reasons for allowance: the prior art of record does not teach or suggest antibodies binding to the polypeptide and native equine immunoglobulin E as instantly claimed, the elicitation of the antibodies as claimed, or the uses of the antibodies as claimed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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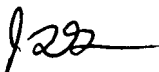
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James L. Grun, Ph.D., whose telephone number is (571) 272-0821. The examiner can normally be reached on weekdays from 9 a.m. to 5 p.m.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le, SPE, can be contacted at (571) 272-0823.

The phone number for official facsimile transmitted communications to TC 1600, Group 1640, is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application, or requests to supply missing elements from Office communications, should be directed to the Group receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James L. Grun, Ph.D.
April 24, 2007


LONG V. LE 04/24/07
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600